

APPENDIX A

Development History of SMBBB TMDLs

In December 1997, the Natural Resources Defense Council (NRDC), acting as legal representative for Heal the Bay, Inc., and Santa Monica BayKeeper, Inc., filed a Notice of Intent to sue the United States Environmental Protection Agency (EPA) over failure of the Regional Water Quality Control Board, Los Angeles (RWQCB), to adequately implement the 303(d)/TMDL Program. In December 1998, NRDC and BayKeeper entered into a Federal Consent Decree with EPA. The Consent Decree established 92 TMDL analytical units, which are water quality limited segments and associated pollutants for which TMDLs must be developed. Specific dates were established for development of some of these TMDL analytical units. The Santa Monica Bay Beaches Bacterial TMDL (SMBBB TMDL) unit had a required completion date of March 2002. During development of the SMBBB TMDL, the Regional Board bifurcated the TMDL into two – one for dry weather periods and one for wet weather periods. The SMBBB TMDLs were not completed by the March 2002 deadline. The Consent Decree then allowed USEPA one year to promulgate the TMDLs. That one-year date, March 2003, was missed also, but the TMDLs were so close to EPA approval that no objections were raised. EPA approved the two SMBBB TMDLs and both became effective July 15, 2003. Both TMDLs require the responsible jurisdictions and responsible agencies to submit a coordinated, shoreline monitoring plan within 120 days after the effective date of the TMDLs (see Resolution 2002-004, attachment A, Table 7-4.3 and Resolution 2002-022, attachment A, Table 7-4.7).

The Santa Monica Bay beaches were designated as impaired and included on California's 1998 CWA §303(d) list of impaired waters due to excessive amounts of coliform bacteria. In July 1999, a committee was formed to oversee the wet-weather dynamic modeling program for the Los Angeles River and Santa Monica Bay watersheds. The purpose of this committee was to design and initiate a wet-weather land use study for both watersheds in order to develop fate and transport models for several pollutants in the watersheds. Its members included representatives from the RWQCB, Southern California Coastal Water Research Project (SCCWRP), Heal the Bay, the City of Los Angeles, the County of Los Angeles, County Sanitation Districts of Los Angeles County, and the Santa Monica Bay Restoration Project (TMDL Draft – Version 4, footnote 3). Many of the responsible jurisdictions, notably the smaller beach cities, were not represented on this committee. This wet-weather, land use study committee last met in 2001.

In October 2001, Resolution 2001-018, revising bacteriological water quality standards for Water Contact Recreation (REC-1) beneficial use in the Los Angeles Basin Plan, was adopted by the LARWQCB. The full significance of this REC-1 revision was not fully understood by most beach cities until the first draft of the SMBBB TMDL was released for public review and comment a month later in November 2001, too late for comment on the REC-1 standard. The TMDL divided the year into three separate periods for compliance purposes, each with specific requirements. The periods were summer dry-weather (April 1 – October 31), winter dry-weather (November 1 – March 31), and wet-

weather (days with ≥ 0.1 inches of precipitation and the three days following the end of the rain event).

By January 2002, it became apparent that more work needed to be done for the wet-weather period. The RWQCB then bifurcated the wet- and dry-weather portions of the TMDL, and only the dry-weather portion was adopted in January 2002. In April 2002, the RWQCB staff briefed responsible jurisdictions on the proposed wet-weather TMDL. The RWQCB staff agreed to utilize the City of Los Angeles' cost estimates for end-of-pipe treatment facilities. Additionally, the Regional Board staff was receptive to the City of Los Angeles's Integrated Resources Approach as an implementation option and to allowing an implementation schedule of more than 10 years, provided the proposal had well defined milestones to achieve compliance.

A preliminary draft of the Santa Monica Bay beaches wet-weather bacterial TMDL was released in June 2002 by the RWQCB and a "final" draft in August 2002. These drafts included an Integrated Resources Approach as a viable implementation option, and proposed an 18-year compliance schedule with interim compliance milestones and 2020 as the final implementation deadline. At a Public Hearing in September 2002 before the Los Angeles RWQCB, there was much criticism by environmental stakeholders of the 18-year compliance schedule. The Board wanted to reduce it to 10 years, but they and the environmental groups liked the concept of an Integrated Resources Approach to capture and beneficially use stormwater runoff. To encourage this approach, the Board directed RWQCB staff to revise the TMDL compliance schedule so that a longer, up to 18 years, compliance schedule could be granted to those dischargers proposing to use the Integrated Resources Approach, but the compliance schedule would remain up to 10 years for those dischargers not proposing to beneficially use the water. The SMBBB TMDL for wet weather finally was adopted in December 2002.

Both the SMBBB dry- and wet-weather TMDLs were approved by EPA in June 2003 and became effective on July 15, 2003. The final staff report for the dry-weather TMDL is dated January 14, 2002, and November 7, 2002, for the wet-weather TMDL.

